

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

WP(C).No. 26892 of 2007(B)

PETITIONER:

MEETHAL ATHICKAL UMMER,
S/O. LI, AGED 55 YEARS, CHALIL, THALASSERY-2
KANNUR DISTRICT.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS:

1. THALASSERY FISH CURERS SAHAKARANA
SANGAM LTD. F-1137 CHALIL, THALASSERY,
REPRESENTED BY ITS SECRETARY.
2. THE ADMINISTRATOR,
THALASSERY FISH CURERS SAHAKARANA
SANGAM LTD. F-1137 CHALIL, THALASSERY,
3. THE RETURNING OFFICER,
FISHERIES DEVELOPMENT OFFICER, KANNUR)
THALASSERY FISH CURERS SAHAKARANA
SANGAM LTD. F-1137 CHALIL, THALASSERY,
4. THE DISTRICT FISHERIES OFFICER,
KANNUR.

BY GOVT. PLEADER SMT.ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.M.JOSEPH, J.

W.P.(c).No. 26892 OF 2007

Dated this the 11th day of September , 2007

JUDGMENT

Case of the petitioner in brief is as follows:

Petitioner is a member of the first respondent society. He challenges the notification referred to in Ext.P2 to conduct election to the managing committee and seeks a direction to re-schedule election by giving adequate publicity and opportunity to all members including the petitioner in a democratic manner. According to the petitioner, society is administered by an administrator, a Fishery Officer, working under the 4th respondent. Petitioner is belonging to an INTUC-1 worker and representing the Congress workers in that locality. Petitioner contested in the last election and succeeded. The administrator decided to conduct election in a secret manner. The procedure of election was neither notified in any daily nor communicated to the members of the opposite side through post and no preliminary voters list was published, it is stated. There are 40 effective members, but only 26 members were included in the final voters list, it is stated. It is

also stated that no final voters list is even published. Petitioner asked a copy of the same, but the third respondent said that a copy will be given only on 12/09/2007, just a day before the election. Ext.P2 is produced as the copy of the intimation issued to one Chandran. It is further stated that it is apparent that copy of the notification was sent only on 23/08/2007 i.e. after finalisation of the voters list. It is stated that even today no voters list is published in the notice board or a copy of the same is given to the petitioner. It is stated that petitioner or his party members has not got any opportunity either to contest in the election or to file objection to the preliminary voters list or to get the copy of the final list.

2. I heard learned counsel for the petitioner and the learned Government Pleader also.

3. Learned Government Pleader on instructions submits that the schedule was published in the notice board on 02/08/2007. It is further submitted that intimation was given to all the persons who petitioner says has been excluded on 23/08/2007. Going by Ext.P2 the date for filing nomination is shown as 01/09/2007. I notice that the election is scheduled to be held on 13/09/2007. Writ petition is filed only on 10/09/2007.

Learned counsel for the petitioner contended that petitioner did not receive any notice and he was prevented from filing objection to the voters list and he could not file nomination. He also submits that other members were also excluded. He submits that petitioner understands from the communication received on 10/09/2007 that he is included in the final voters list.

The writ petition is filed only on 10/09/2007. Of course, petitioner has an explanation for it. The explanation is that petitioner was not aware of the developments till he came to know of it very recently. I would decline jurisdiction in this matter and relegate the petitioner to challenge the election if he is so advised. In such circumstances, the writ petition is dismissed without prejudice to the petitioner to challenge the election. If the petitioner files a petition challenging the election within time, a decision thereon will be taken without any delay and at any rate within a period of three months from the date on which any such petition is filed.

(K.M.JOSEPH, JUDGE)

SV.

